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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,769	06/27/2003	Raimund Modlhammer	031226-014	5494

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EXAMINER

JACKSON, ANDRE L

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,769

Applicant(s)

MODLHAMMER, RAIMUND

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The form and legal phraseology often used in patent claims, such as "**means**" and "said," should be avoided (last line of abstract). The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,305,496 to Gagnon et al. Gagnon et al (Figs. 5 and 6) discloses a suspension caster device (60) for caster wheels (62) carried by a wheel mount (72) about a carrying axis (65), the suspension device comprising at least one hub body (68) which is arranged in between the wheels and, together with the wheels, the at least one hub body is mounted so as to be pivotable about a supporting axle (64) provided on the wheel mount, wherein the supporting axle is spaced from the carrying axis of the wheels and wherein at least one spring member (70) is provided which co-operates with the at least one hub body so as to cushion the pivoting movement of the hub body, the wheel mount carries at least one abutment member (34) which is spaced from the supporting axle and on which the at least one hub body is supported or is supportable by means of the at least one spring member.

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As to claims 2-9, Gagnon et al discloses that the at least one spring member is a pair of elastomeric disks which absorb compressive and axial loads of the caster device. As shown in Fig. 6, the hub body is formed by two connectable plate halves, connectable to one another in a snap-locking manner, where the plate halves include a spacing for receiving the spring members and a curved slot (76) through which the supporting axle is guided there-through. An inner portion of each caster wheel defines a bearing (Fig. 4) that houses a portion of the hub body.

Response to Applicant's Arguments

Applicant's arguments filed in the Amendment of January 5, 2005 have been fully considered but they are not persuasive. In response to applicant's arguments that the prior art relied upon by the Examiner (#5,305,496 to Gagnon et al) is structurally different from applicant's claim invention and fails to disclose all of the limitations recited in independent claim 1 is duly noted. In regards to the structural difference between Gagnon et al's patented invention and applicant's claimed invention, the Examiner would agree with applicant. However, as to the recited limitations of applicant's claims missing or lacking by Gagnon et al pointed out by applicant on page 6 of the remarks is found not to be persuasive. In particular, the last paragraph of applicant's arguments on page 6 state Gagnon et al fails to disclose or suggest "a supporting axle provided on a wheel mount", instead applicant asserts Gagnon et al includes an axle 64 not mounted on a plate (wheel mount) 72 but extends through slots and moves freely with respect to the plate 72. Here, the Examiner disagrees with applicant and points out figures 5 and 6 of Gagnon et al which illustrates a pair of plates 72 (wheel mounts), the plates including an arcuate slot 76 through which a live (wheel) axle 64 passes. In contrast to applicant's remarks, Gagnon et

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al further discloses (col. 4, lines 12-13) that wheel axle 64 rides in the slots. The Examiner broadly interprets this passage of Gagnon et al as a supporting axle 64 provided on (axle riding in a lower wall surface of the slot) a portion of the wheel mount 72.

As to applicant's remarks on page 6, second paragraph, that applicant's invention involves a suspension created by a spring member and not a torsion device as disclosed by Gagnon et al, the Examiner disagrees. Here, Gagnon et al (col. 1, lines 42-47) discloses a suspension created by elastomeric torsional spring/damper elements, which to one of ordinary skill in the art is a spring member broadly interpreted.

In response to applicant's remarks found on page 7 where applicant indicates Gagnon et al further fails to disclose or suggest the wheel axle 64 is spaced from a carrying axis 65 of the wheel(s), the Examiner disagrees. Since, Gagnon et al discloses (col. 3, lines 58-59) that the carrying axis 65 is defined by bearings 66 of the wheel, with reference to figure 6, Gagnon et al adds (col. 4, lines 22-23) that the wheel axle 64 is spaced from the bearings 66 by an angle, which the Examiner interprets as a supporting axle 64 spaced from the carrying axis 65 of the wheel as claimed.

Therefore, for the foregoing reasons explained above, the Examiner believes applicant's claims, as presented, are fully anticipated by Gagnon et al. Consequently, claims 1-10 remain unpatentable over Gagnon et al.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

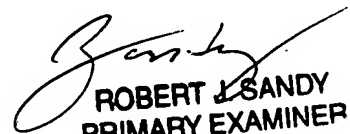
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson
Patent Examiner
AU 3677

ALJ


ROBERT J. SANDY
PRIMARY EXAMINER